

Christina T. Tellado (SBN 298597)
ttellado@polsinelli.com
Mary Vu (SBN 323088)
mvu@polsinelli.com
POLSINELLI P.C.
2049 Century Park East, Suite 2900
Los Angeles, CA 90067
Telephone: 310-556-1801
Facsimile: 310-556-1802

(Additional counsel listed on next page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

TESLA, INC.

Defendant.

Case No.: 3:23-cv-04984-JSC

**DEFENDANTS' SUBMISSION
REGARDING PRESERVATION OF
SOURCES OF ELECTRONICALLY
STORED INFORMATION**

1 Sara A. Begley (admitted pro hac vice)
2 Dana E. Feinstein (admitted pro hac vice)
3 sbegley@polsinelli.com
4 dfeinstein@polsinelli.com
5 POLSINELLI P.C.
6 Three Logan Square
7 1717 Arch Street, Suite 2800
8 Philadelphia, PA 19103
9 Telephone: 215-267-3001
10 Facsimile: 215-267-3002

11 Tyree P. Jones Jr., SBN 127631 (CA)
12 tjones@polsinelli.com
13 POLSINELLI P.C.
14 1401 I Street, N.W., Suite 800
15 Washington, DC 20005-3317
16 Telephone: 202-783-3300

17 Raymond A. Cardozo, SBN 173263 (CA)
18 rcardozo@reedsmith.com
19 REED SMITH LLP
20 101 Second Street, Suite 1800
21 San Francisco, California 94105-3659
22 Telephone: 415-543-8700
23 Facsimile: 415-391-8269

24 Attorneys for Defendant TESLA, INC.

Pursuant to this Court's February 3, 2025 Order regarding Second ESI Protocol Discovery Dispute (ECF No. 84), Defendant, Tesla, Inc. submits the following information related to its Relevant ESI Sources identified in the parties' Second Stipulated Order Regarding Discovery of Electronically Stored Information for Standard Litigation, Attachment 1, filed with the Court on February 7, 2025 (ECF No. 88).

Microsoft Outlook Data

As a matter of practice, Tesla preserves .pst data on all Human Resources, Employee Relations, employees affiliated with Legal and all employees Director level and above. Messages exchanged via Microsoft Teams are also preserved as a matter of practice but Microsoft Teams was launched at Tesla in 2018. Therefore, Teams related data is only available since its inception in 2018. As stated in the parties' Second ESI Protocol, Tesla's email and Teams messages are maintained on the Microsoft Office Outlook system.

With regard to all other users at Tesla, while Tesla has a Records Retention & Disposal Policy, .pst data has not been subject to destruction and therefore is accessible.

Convercent and CaseIQ

Tesla also maintains and preserves all internal employee complaints and issues documented in Convercent and CaseIQ since each application's inception [Convercent since mid-2017 and CaseIQ since mid-2023]. Data in these databases is never destroyed.

Inside Tesla Application

Finally, Tesla maintains and preserves employment related data within Tesla's MySQL database and employment related documents are stored within the Document Management System ("DMS"). Inside Tesla sources this employment data from the MySQL dataset and DMS.

1 **OneDrive**

2 To the extent users store documents on OneDrive, that data is not subject to deletion.

3 **Tesla-Issued Devices**

4 With regard to Tesla-issued devices including laptops and cellular phones, when an
5 employee separates from employment at Tesla, and to the extent said employee follows Tesla's
6 protocols for return of Tesla property upon separation, returned devices (laptops, cellular phones)
7 are repurposed or recycled generally within thirty days unless the user is subject to a Legal Hold.
8 However, any documents saved by said employee on Tesla's servers are maintained.

9 **Document Retention Notices and Legal Holds in Related Matters**

10 On December 15, 2017 and later on January 7, 2018, Document Retention Notices were
11 issued in relation to *Marcus Vaughn, et al. v. Tesla, Inc.*, Superior Court of Alameda County, No.
12 RG17882082. The Notice required users to preserve data relevant to the allegations in that action
13 for the period November 9, 2016 to the present and was served on a number of custodians including
14 the relevant Human Resources and Employee Relations professionals (who were already subject to
15 a hold). Additionally, the .pst data for each of the Lead Plaintiffs in the *Vaughn* matter and other
16 related witnesses identified in the Complaint in the *Vaughn* matter were also subject to a Legal Hold
17 and the data has been and continues to be preserved.

18 In April 2022, Document Retention Notices were issued in relation to *DFEH v. Tesla, Inc.*,
19 Superior Court of Alameda County, No. 22cv006830. The Notice required users to preserve data
20 relevant to the allegations in that action, which are broader than those asserted in this action, for the
21 period June 1, 2018 to the present and was served on a number of custodians including the relevant
22 Human Resources and Employee Relations professionals (who were already subject to a hold).

23 As a matter of practice, Tesla issues Legal Holds once it is served with notice of any Charge
24 filed with the EEOC or the California Civil Rights Department. Additionally, Tesla issues Legal
25 Holds for individuals who received a Notice of Right to Sue from the EEOC or the California Civil
26 Rights Department when provided notice of same.

1 Tesla is in the process of issuing Legal Holds for the Potentially Aggrieved Individuals
2 recently identified by the EEOC and will continue to do so as the EEOC identifies additional
3 individuals. That said, relevant employment data would not be subject to deletion anyway.

4 Defendant would also request that for mutual clarity this Court direct the EEOC to identify
5 the specific ESI sources it has preserved for this case, when the preservation order(s) was placed,
6 the beginning date of the preserved ESI, and a general description of the information in each source.
7 The submission shall also identify whether any of the sources of data identified on Exhibit A are
8 inaccessible and why they are inaccessible.

9 Respectfully submitted,

10 Dated: February 13, 2025

11 /s/ Tyree P. Jones, Jr.
12 Tyree P. Jones, Jr., SBN 127631 (CA)

13 *Attorneys for Defendant, Tesla Inc.*
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28